

United States District Court  
Southern District of New York

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YULI CONELY, as Administratrix of the Estate of LEIBE  
OCIELE MEDINA, a/k/a CEILE MEDINA, Deceased and  
YULI CONELY, Individually, EPHRAIM RIVERA and  
RAPHAEL RIVERA,

Plaintiffs,

-against-

SEABOATS, INC.,

Defendant.  
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DATE FILED: 3/21/08

2007 Civ. 11390 (RJH)

**SCHEDULING ORDER**

Pursuant to Fed. R. Civ. P. 26 (a) the following is the Scheduling Order for all pre-trial proceedings in this case:

I. Description of the case.

a) Attorneys for the parties:

Plaintiff: Frank V. Floriani  
Sullivan, Papain, Block, McGrath & Cannavo  
120 Broadway  
New York, NY 10271  
(212) 732-9000

Defendant: Kirk M. Lyons  
Lyon & Flood, LLP  
65 West 36<sup>th</sup> Street  
7<sup>th</sup> Floor  
New York, NY 10018  
(212) 594-2400

b) This action was removed to this Court jurisdiction is based on diversity of citizenship and that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

c) Claims are for conscious pain and suffering and wrongful death as well as counterclaims arising out of the subject accident which occurred in the waters of the Long Island Sound on June 10, 2007.

d) It is alleged that the defendant's tug and barge collided with and went over a cabin cruiser in which plaintiffs Raphael Rivera and Ephraim Rivera and plaintiff's decedent, Leibe Ociele Medina, were passengers. The passengers jumped in the water as the barge collided with their boat. Defendant contends the plaintiffs Rivera caused the alleged collision. In addition, the defendant alleges that the medical condition of the plaintiffs may be at issue.

e) Money damages are sought for decedent's conscious pain and suffering and wrongful death and for the personal injuries sustained by plaintiff Ephraim Rivera and Raphael Rivera as well as for property damage for Raphael Rivera's boat. Defendant seeks contribution from the plaintiffs.

II. a) There are no pending motions.

b) Joinder of additional parties shall be accomplished by March 31, 2008.

c) Amendments to pleadings may be filed without leave of Court by March 31, 2008.

d) (i) All Rule 26 (a)(1) disclosures shall be served within thirty (30) days hereof.

(ii) Fact discovery is to be completed by December 31, 2008.

(iii) Rule 26 (a)(2) disclosure shall be completed by March 31, 2009.

(iv) Expert discovery shall proceed as follows:

(a) Plaintiffs to serve their expert report by January 30, 2009.

(b) Defendant to serve their expert report by February 27, 2009.

(c) Plaintiffs' expert to be deposed by March 13, 2009.

(d) Defendant's expert to be deposed by March 31, 2009.

(e) Dispositive motions to be filed by April 15, 2009.

(f) A final pre-trial order is to be filed by April 30, 2009.

(g) Trial Schedule

- (i) Jury Trial is requested. Plaintiff is to file their jury demand by March 31, 2008 pursuant to Fed. R. Civ. P. 81 (c)(A).
- (ii) Probable length of trial 4-5 days.
- (iii) Case will be trial ready by May 15, 2009.

III. The parties do not consent to a trial before a Magistrate Judge.

IV. Status of Settlement Discussions

(a)(b) Settlement discussions have not yet occurred.

(c) The parties do not request a settlement conference at this time but respectfully reserve their right to request one at a later date.

Dated: New York, New York  
March 7, 2008

V. A pretrial conference shall be held on 01/09/09. AT 10:00 AM

VI. No extensions of the (Gregory) schedule should be requested.

SULLIVAN PAPAIN BLOCK  
McGRATH & CANNAVO P.C.

By:   
FRANK V. FLORIANI (FF 4489)

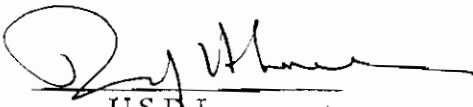
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120 Broadway  
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LYONS & FLOOD, LLP

By:   
KIRK M. LYONS (KL 1568)

Attorneys for Defendant  
65 West 36<sup>th</sup> Street  
7<sup>th</sup> Floor  
New York, NY 10018  
(212) 594-2400

SO ORDERED:

  
U.S.D.J. 3/20/08